



Legal Proceedings and Associated Fees at 111 E. Chestnut

July 5, 2018

Dear Homeowners:

In light of a recent court ruling, we would like to provide some background regarding litigation in which our Association and members of its Board of Directors (past and present) are involved, and discuss the impact of legal fees arising from it.

General Background

The Illinois Condominium Property Act (ICPA) and our association's declarations, bylaws, rules and regulations exist in part to maintain positive and orderly relations among owners and residents and the Board of Directors. They also help uphold our building's status as a premier, desirable place to live in a city that offers many luxury residential options.

Under the ICPA, condominium Boards of Directors are empowered "... after notice and an opportunity to be heard, to levy reasonable fines for violation of the declaration, by-laws, and rules and regulations of the association."

Fines and Lawsuits

Some years ago, based on multiple written complaints, your Board cited two homeowners for obnoxious behavior in the common areas. The complaints came from other homeowners and building employees.

The two homeowners were provided with written notice of the charges and an opportunity to be heard by the Board. After hearings and consideration of all available information, the then-members of the board assessed fines of \$250 per incident against each of the two unit owners. The two owners then turned around and sued members of the Board (in the case of one unit owner), and members of the Board and the Association (in the case of the other).

The two lawsuits asserted any number of claims, including for purported violation of constitutional rights and claims relating to production of documents, breach of fiduciary duty and tortious interference with contract and civil conspiracy. (All this over fines of \$500 in one case and \$1,000 in the other. No reasonable settlement opportunities were ever presented.)

In the lawsuit by current unit owner Brian Connolly (twice removed as a member of the Association's Board and the author of a snarky, negative blog about our building), he repeatedly amended his complaints. They began with demands for a full-time pool attendant (some of his behavior had taken place in the pool area) and mandatory submission to inspections by the City of

Chicago for a period of ten years. They culminated in a Third Amended Complaint that the Court not only dismissed but found sanctionable, awarding over \$111,000 in attorney fees and costs incurred by the Association. (Mr. Connolly is appealing the decision.)

In the lawsuit brought by former unit owner Michael Boucher, the Association and Board members prevailed following a hearing on their motion for summary judgment (i.e., a finding of law in situations where the facts are not in dispute). However, recently the appellate court reversed the summary judgment and remanded the case for further proceedings, including trial.

If allowed to stand, the Boucher appellate decision significantly and detrimentally impacts all Illinois condo associations' ability to self-govern and to restrict unwanted behaviors. Given that, the Board has decided to appeal this decision to the next Appellate Court level.

What Has This Cost Our Building?

The actions of these two litigious owners – over fines as small as \$500 and \$1,000 -- have cost all homeowners. Beyond unreimbursed legal fees (which, for all matters, were 2.3% of your assessments over the past 4 years), fewer insurance companies will offer us coverage, and premiums and deductibles increase. (Recent policies have excluded coverage for litigation involving Messrs. Connolly and Boucher.)

Mr. Connolly also costs you continuing legal fees by inundating our management office with burdensome requests for documents. This and other antics divert attention away from important projects and slow the response to other homeowners' needs. Our management office must also constantly address concerned prospective buyers and homeowners who don't understand why a homeowner would author a blog that degrades his own investment and place of residence.

Moving Forward

Thanks to prudent decisions by our Board and management, our Building continues to hold a strong financial position. We are in capable hands with an experienced, professional management company (Sudler), have the attention of highly experienced attorneys (KSN) and enjoy faithful employees who engage daily in pleasant interactions with homeowners and other residents.

Your Board endeavors to ensure that all homeowners and employees are provided a safe, positive community in which to live and work, always striving to elevate our Building's status among Gold Coast residences and thereby increasing property values. We encourage homeowners who wish to further discuss this matter to contact us through the Management Office or attend our next Board meeting on July 12 (6pm in the 9th floor party room).

Sincerely,

111 E. Chestnut Condominium Association Board of Directors

Anthony Milazzo, President
Serap Brush, Vice President
Jane Santogrossi, Treasurer
Carolann Randall, Secretary

Susan Koralik, Director
Tom McDonald, Director
Kristin Vilt, Director